IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

FRIDAY, THE 10TH AUGUST 2007 / 19TH SRAVANA 1929

WP(C).No. 4977 of 2005(P)

EP.95/2004 of MUNSIFF COURT, PUNALUR

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PETITIONER:

GEORGE THOMAS, AGED 46,
S/O. K.C. THOMAS, THEKKEDATHU KIZHAKATHIL,
SELEMPURAM, PATHANAPURAM.

BY ADV. SRI.VARGHESE C.KURIAKOSE
SRI.PRAVEEN K. JOY

RESPONDENTS:

JINU. K. THOMAS, S/O. M. THOMAS,
VARATTUCHIRA THAKKATHIL,
SELEMPURAM, PATHANAPURAM.

BY ADV. SRI.DILIP MOHAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P(C)No.4977/2005

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1. TRUE PHOTOCOPY OF THE JUDGMENT DATED 25-2-2004 IN O.S.152/2003 ON THE FILES OF MUNSIFF'S COURT, PUNALUR

EXT.P2. TRUE PHOTOCOPY OF THE APPLICATION AS I.A.NO.346/2004 IN O.S.NO.152/2003 ON THE FILES OF MUNSIFF'S COURT, PUNALUR, DATED 26-2-2004.

EXT.P3. TRUE PHOTOCOPY OF THE ORDER DATED 16-3-2004 IN I.A.NO.346/2004 IN O.S.NO.152/2003 ON THE FILES OF MUNSIFF'S COURT, PUNALUR.

EXT.P4. TRUE PHOTOCOPY OF I.A.NO.315/2005 IN O.S.NO.152/2003 ON THE FILES OF THE MUNSIFF'S COURT, PUNALUR DATED 7-2-2005

EXT.P5. TRUE PHOTOCOPY OF I.A.NO.314/2005 IN O.S.NO.152/2003 ON THE FILES OF THE MUNSIFF'S COURT, PUNALUR DATED 7-2-2005.

RESPONDENTS' EXHIBITS:

EXT.R1(a) TRUE COPY OF THE DECREE DATED 25-3-04.

EXT.R1(b) TRUE COPY OF THE EXECUTION PETITION FILED BY THE RESPONDENT.

EXT.R1(c) TRUE COPY OF THE PROCEEDINGS BEFORE THE MUNSIFF'S COURT, PUNALUR IN EP 95/04 IN O.S.NO.152/03.

/ TRUE COPY /

P.S.TO JUDGE

KURIAN JOSEPH, J.

W.P(C)No.4977 of 2004

Dated this the 10th day of August, 2007

JUDGMENT

The writ petition is filed with the following prayers:-

> 1. To call for the records leading to issuance of Ext.P3 order and to set aside the same.
>
> 2. To issue a writ, order or direction, directing the Munsiff's Court, Punalur to consider the application to set aside the ex parte decree, as I.A.No.315/2005 in O.S.152/2003 along with Ext.P5, delay condonation application and to keep in abeyance the execution proceedings in E.P.No.95/2004, till the disposal of the same.

In the report from the Munsiff Court, Punalur it is stated that no separate notice was issued to the respondent in I.A.No.346/2004. It is submitted by the counsel for the petitioner that notice had already been posted. Therefore, Ext.P3 order is set aside directing the Munsiff Court, Punalur to pass fresh orders in the matter expeditiously. The execution proceedings shall be deferred till such time.

The writ petition is disposed of as above.

(KURIAN JOSEPH, JUDGE)

ahg.